

REMARKS

Applicant requests favorable reconsideration and withdrawal of the rejection set forth in the above-mentioned Office Action in view of the foregoing amendment and the following remarks.

Claims 1-9 remain pending, with claim 1 being the only independent claim. Claim 1 has been amended herein. Support for the amendment can be found throughout the originally-filed disclosure including, for example, at the paragraph beginning on page 9, line 21, of the specification, as well as in the drawings. Accordingly, Applicant submits that the amendment does not include new matter.

Claims 1-9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,822,472 to Danielzik et al. (*Danielzik*) in view of newly-cited U.S. Patent No. 6,558,958 to Pilevar et al. (*Pilevar*).

Applicant respectfully traverses the rejection. Nevertheless, without conceding the propriety of the rejection and solely to expedite prosecution, Applicant has amended independent claim 1 to clarify certain of its features not suggested by the cited art. Applicant submits that claim 1, together with the claims depending from it, are patentable over any combination of the cited art for at least the following reasons.

Independent claim 1 recites an optical analysis device. As amended, the device comprises a cylindrical columnar light-transmitting member, light separating means, condenser means, and detecting means. The light-transmitting member has an external face for immobilizing a detection-objective substance, a first end, and a second end. Exciting light is introduced into the first end of the light-transmitting member and transmitted through it. Fluorescence light is generated by excitation of the detection-

objective substance by the exciting light. The fluorescence light is separated from exciting light by the light separating means, which is at the second end of the light-transmitting member. The condenser means condenses the separated fluorescence light, and the detecting means detects the condensed fluorescence light.

The Office Action generally relies on the planar optical sensor platform of *Danielzik* for a teaching of the optical analysis device of claim 1. However, because *Danielzik* fails to teach the claimed cylindrical columnar light-transmitting member, the Office Action relies on *Pilevar* to teach this feature.

In Applicant's view, Figure 6 of *Pilevar* teaches an evanescent field fluorosensor. One component of the sensor is the fiber Bragg grating filter shown in Fig. 7. This filter is a single-mode optical fiber having a periodic modulation of its refractive index modulation. As noted in column 10, lines 13-18, the filter can block stray excitation light and permit propagation of fluorescence.

With this configuration in mind, Applicant submits that a combination of *Danielzik* and *Pilevar* does not yield the device of claim 1. The Office Action states that a combination of the fiber Bragg grating filter of *Pilevar* with the optical sensor platform of *Danielzik* renders obvious claim 1. However, as discussed above, the claimed light-transmitting member has an external face at which the detection-objective is immobilized. In contrast, in its discussion of the fiber Bragg grating filter, *Pilevar* does not even contemplate an external face at which a detection-objective substance is immobilized. A combination of *Pilevar* and *Danielzik* thus would result in a device failing to include an external face having an immobilized detection-objective substance. In operation, then,

such a device would not generate fluorescence light by excitation of the substance. This differs drastically from the optical analysis device of claim 1.

Applicant also submits that the cited art fails to teach the condensing means recited in claim 1, which condense the fluorescence light that is separated from the exciting light. Neither *Danielzik* nor *Pilevar* disclose such a means. Therefore, claim 1 is patentable over the cited art, whether that art is taken alone or in combination.

The remaining claims are directly or indirectly dependent from claim 1. Thus, these claims also are patentable at least by virtue of their dependencies. Because the dependent claims each recite features in addition to those recited in claim 1, Applicant requests individual reconsideration of the dependent claims.

For at least the foregoing reasons, Applicant submits that the claimed invention is patentable over *Danielzik* and *Pilevar*.

In view of the foregoing amendment and remarks, Applicant respectfully requests favorable reconsideration and passage to issue of the application.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continued to be directed to our address given below.

Respectfully submitted,

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